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21 *Counsel for Defendant Google LLC*

22 UNITED STATES DISTRICT COURT

23 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

24 CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO,
individually and on behalf of all similarly
situated,

25 Case No. 4:20-cv-03664-YGR-SVK

Plaintiffs,

26 v.
27 GOOGLE LLC’S SUBMISSION IN
28 RESPONSE TO DKT. 604

Judge: Hon. Susan van Keulen

GOOGLE LLC,
Defendant.

1 Pursuant to the Court’s June 9, 2022 Order on Google’s Administrative Motion for
 2 Clarification of May 20, 2022 Preservation Order (“Clarification Order”) (Dkt. 604), in this
 3 submission Google “identifies and describes the keys that Google is seeking to carve out of the
 4 Preservation Order on the ground that the keys are not required,” Dkt. 604 at 3, and seeks a minor
 5 clarification related to retention periods of sources retained permanently.

6 **1. Clarification On Encryption Keys Google Seeks to Exempt**

7 The Court ordered only “relevant, *necessary* rotating encryption keys be preserved.” Dkt.
 8 604 at 3 (emphasis in original). Two sets of encryption keys fall outside the scope of the preservation
 9 order because they are not relevant or necessary:

10 ***Encryption Keys Not Associated with Relevant Data.*** Those encryption keys that are not
 11 associated with the data the Court has held needs to be preserved necessarily fall outside of the
 12 Court’s order because they are not relevant. Google is confident that the Court could not have meant
 13 for such keys to be included in the preservation, but out of an abundance of caution Google would
 14 like to obtain written clarification by the Court on this exemption.

15 [REDACTED]. [REDACTED]
 16 [REDACTED], *Calhoun* Dkt. 713-8 ¶ 5 (Chan Decl), should also be exempted from the
 17 Court’s order because, as Google explains below, this encryption key is extremely sensitive and
 18 Google proposes a satisfactory work-around in lieu of preservation of the key.

19 *First*, there are undue privacy and security risks associated with preserving the [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]
 26 [REDACTED]
 27 [REDACTED]
 28 [REDACTED]

1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 Second, given these outsized risks, Google is committed to engineering and implementing
 5 work-arounds to full preservation of the [REDACTED] thus rendering the preservation
 6 of this key unnecessary for purposes of decrypting the data to be preserved pursuant to the
 7 Preservation Plan. Dkt. 604 at 3; *see also* Dkt. 587 at 8 (“Google should be required to preserve all
 8 encryption keys **necessary** to decrypt identifiers and cookies.”) (emphasis added). Google is willing
 9 to perform the following three steps, which together are more than sufficient to ensure that the
 10 relevant data is capable of decryption: [REDACTED]

11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED] *See Calhoun Dkt. 713-8 ¶ 10*
 14 (Chan Decl). Google proposes an additional encryption step to store preserved user data securely.

15 **2. Clarification Related to Sources Retained Permanently**

16 The June 9, 2022 Order clarified the Court’s intent in requiring Google to seek leave of the
 17 Court to shorten any retention period “for any data source that is currently retained ‘forever.’” Dkt.
 18 604 at 2. Specifically, “the Court anticipated that data sources that do not have retention periods ...
 19 may have been excluded from the lists of data sources to be preserved because of the absence of a
 20 retention period.” *Id.* Google respectfully notes that the Preservation Plan already included five data
 21 sources currently retained “forever”: [REDACTED] (Dkt. 587-1 at 2, R&R Index #6);
 22 [REDACTED] (*id.*, R&R Index 52); [REDACTED] (*id.*, R&R Index #56); [REDACTED] (*id.*,
 23 R&R Index # 60), and [REDACTED] (Dkt. 587 at 7:23). In addition, [REDACTED] that are
 24 currently retained “forever” have been identified as relevant data sources as part of the Special
 25 Master process: [REDACTED] [REDACTED] [REDACTED]
 26 [REDACTED]

27 Google seeks to confirm that the Court’s requirement regarding “any data source ...
 28 preserved in perpetuity” in the Clarification Order is in reference to the aforementioned [REDACTED]

1 curated by the Preservation Order and the eight-month review before the Special Master, *not* any
2 data sources within Google. The latter standard would be inefficient and burdensome for both
3 Google to comply with and for the Court to administer.

4
5 DATED: June 21, 2022

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